IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF AUGUST, TWO THOUSAND AND SEVEN

PRESENT
THE HON'BLE MR. JUSTICE S.ANANDA REDDY

WRIT PETITION No. 466 of 2003

Between:

Vadla Vittal ..... PETITIONER

AND

The Divisional Forest Officer, Medak
At Sangareddy and two others.

.....RESPONDENTS

THE HON'BLE MR. JUSTICE S.ANANDA REDDY

WRIT PETITION No. 466 of 2003

ORDER:

This writ petition is filed by the petitioner questioning the proceedings of the 1st Respondent dated 27.11.2002 under which the license granted in favour of the Petitioner, which was due to expire by 31.12.2002 for the renewal of which an application was filed, was cancelled on the premise that the license granted to the Petitioner is contrary to the provisions of Rule 3(1) of the A.P. Sawmill Rules, 1969, (hereinafter referred to 'the Rules') as amended on 17.7.1998.

2. According to the Petitioner, he was granted license originally which was in force from 28.4.2001 to 31.12.2001, and the same was further renewed up to 31.12.2002. But, before the expiry of the period of the license, an application was filed for renewal of the license for further period while paying the amount of Rs.5,000/- as contemplated under the Rules. But, however, the Respondent-licensing authority instead of renewing the license, cancelled the existing license itself before the expiry of the license period, which was valid up to 31.12.2002, by the impugned proceedings dated

27.11.2002.

3. At the time of hearing, it is represented by the learned counsel that identical issue was considered by a Division Bench of this court in ***Government of A.P., vs. Sree Sharada Timber Depot***[1] wherein it was held that the orders in G.O.Ms.No. 92, dated 16.4.1994 and G.O.Ms.No. 448, dated 28.12.1989, imposing similar restrictions for granting of license in respect of the sawmills situated within the 5 kilometers from the forest boundary of the entire State as ultra vires of Section 29, which only enables the Government to frame rules only in respect of a particular local area. Therefore, the learned counsel sought for setting aside the impugned proceedings.

4. A counter is filed on behalf of the Respondents referring to the Rules as amended in G.O.Ms.No. 99 Environment, Forest, Science & Technology Department, dated 17.7.1998, as per which Sub-rule (2) of Rule 3 of A.P. Sawmills Rules, no license for setting up fresh sawmills within a distance of 5 KMs from the boundary of any forest under the control of the Forest Department, whether notified or not shall be granted, except when it is required for Departmental use.

5. Heard both the learned counsel and considered the material on record.

6. It is clear that identical Rule was held to be invalid by a

Division Bench of this court, which was even followed subsequently by a learned single Judge of this court in W.P.No.4491 of 1998, dated 18.2.1998, where the same sub-rule (2) of Rule 3 of the Rules, as amended, was considered, under which the restriction for the grant of license for setting up of fresh sawmills within the distance of 5 KMs from the boundary of any forest area is incorporated. Therefore, in view of the above decision of the Division Bench as well as the learned single Judge of this court, the restriction imposed by way of amendment to Rule 3 of Andhra Pradesh Sawmills Rules is held to be ultra vires. Therefore, the impugned order is set aside accordingly.

7. The writ petition is, accordingly, allowed. No costs.

_____

S.ANANDA REDDY.J

Dated: 22..08..2007
kvh

THE HON'BLE MR. JUSTICE S.ANANDA REDDY

-
-
-
-
-
-
-
-
-

WRIT PETITION No. 466 of 2003

O R D E R

Dt. 22...08...2007

---

[1] 1996(3) ALD 237 (D.B.)